



# Senate

General Assembly

**File No. 515**

February Session, 2018

Substitute Senate Bill No. 251

*Senate, April 16, 2018*

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist. and SEN. MCLACHLAN, M. of the 24<sup>th</sup> Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING STATE CONSTRUCTION AND STATE  
INFORMATION AND TELECOMMUNICATION SYSTEMS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (d) and (e) of section 4b-91 of the general  
2 statutes are repealed and the following is substituted in lieu thereof  
3 (*Effective July 1, 2018*):

4 (d) Each bid submitted for a contract described in subsection (c) of  
5 this section shall include an update [bid] statement in such form as the  
6 Commissioner of Administrative Services prescribes and, if required  
7 by the public agency soliciting such bid, a copy of the prequalification  
8 certificate issued by the Commissioner of Administrative Services. The  
9 form for such update [bid] statement shall provide space for  
10 information regarding all projects completed by the bidder since the  
11 date the bidder's prequalification certificate was issued or renewed, all  
12 projects the bidder currently has under contract, including the

13 percentage of work on such projects not completed, the names and  
14 qualifications of the personnel who will have supervisory  
15 responsibility for the performance of the contract, any significant  
16 changes in the bidder's financial position or corporate structure since  
17 the date the certificate was issued or renewed, any change in the  
18 contractor's qualification status as determined by the provisions of  
19 subdivision (6) of subsection (c) of section 4a-100 and such other  
20 relevant information as the Commissioner of Administrative Services  
21 prescribes. [Any bid submitted without a copy of the prequalification  
22 certificate, if required by the public agency soliciting such bid, and an  
23 update bid statement shall be deemed invalid.] Any public agency that  
24 accepts a bid submitted without a copy of such prequalification  
25 certificate, if required by such public agency soliciting such bid, and an  
26 update [bid] statement may become ineligible for the receipt of funds  
27 related to such bid, except that the public agency soliciting such bids  
28 may allow bidders no more than two business days after the opening  
29 of such bids to submit a copy of the prequalification certificate, if  
30 required by such public agency, and an update statement.

31 (e) Any person who bids on a contract described in subsection (c) of  
32 this section shall certify under penalty of false statement at the  
33 conclusion of the bidding process that the information in the bid is  
34 true, that there has been no substantial change in the bidder's financial  
35 position or corporate structure since the bidder's most recent  
36 prequalification certificate was issued or renewed, other than those  
37 changes noted in the update [bid] statement, and that the bid was  
38 made without fraud or collusion with any person.

39 Sec. 2. Subsection (k) of section 4a-100 of the general statutes is  
40 repealed and the following is substituted in lieu thereof (*Effective July*  
41 *1, 2018*):

42 (k) (1) Any substantial evidence of fraud in obtaining or  
43 maintaining prequalification or any materially false statement in the  
44 application [,] or update statement [or update bid statement] may, in  
45 the discretion of the awarding authority, result in termination of any

46 contract awarded the contractor by the awarding authority. The  
47 awarding authority shall provide written notice to the commissioner of  
48 such false statement not later than thirty days after discovering such  
49 false statement. The commissioner shall provide written notice of such  
50 false statement to the Commissioner of Consumer Protection and the  
51 president of The University of Connecticut not later than thirty days  
52 after discovering such false statement or receiving such notice.

53 (2) The commissioner shall deny or revoke the prequalification of  
54 any contractor or substantial subcontractor if the commissioner finds  
55 that the contractor or substantial subcontractor, or a principal or key  
56 personnel of such contractor or substantial subcontractor, within the  
57 past five years (A) has included any materially false statement in a  
58 prequalification application [ ] or update statement, [or update bid  
59 statement,] (B) has been convicted of, entered a plea of guilty or nolo  
60 contendere for, or admitted to, a crime related to the procurement or  
61 performance of any public or private construction contract, or (C) has  
62 otherwise engaged in fraud in obtaining or maintaining  
63 prequalification. Any revocation made pursuant to this subsection  
64 shall be made only after an opportunity for a hearing. Any contractor  
65 or substantial subcontractor whose prequalification has been revoked  
66 pursuant to this subsection shall be disqualified for a period of two  
67 years after which the contractor or substantial subcontractor may  
68 reapply for prequalification, except that a contractor or substantial  
69 subcontractor whose prequalification has been revoked on the basis of  
70 conviction of a crime or engaging in fraud shall be disqualified for a  
71 period of five years after which the contractor or substantial  
72 subcontractor may reapply for prequalification. The commissioner  
73 shall not prequalify a contractor or substantial subcontractor whose  
74 prequalification has been revoked pursuant to this subdivision until  
75 the expiration of said two-year, five-year, or other applicable  
76 disqualification period and the commissioner is satisfied that the  
77 matters that gave rise to the revocation have been eliminated or  
78 remedied.

79 Sec. 3. Subsection (n) of section 4a-100 of the general statutes is

80 repealed and the following is substituted in lieu thereof (*Effective July*  
81 *1, 2018*):

82 (n) The commissioner shall establish an update statement for use by  
83 contractors and substantial subcontractors for purposes of renewing or  
84 upgrading a prequalification certificate and [an update bid statement]  
85 for purposes of submitting a bid pursuant to section 4b-91, as amended  
86 by this act.

87 Sec. 4. Section 4b-92 of the general statutes is repealed and the  
88 following is substituted in lieu thereof (*Effective July 1, 2018*):

89 As used in this chapter and except as otherwise provided, "lowest  
90 responsible and qualified bidder" means the bidder who is  
91 prequalified pursuant to section 4a-100, as amended by this act, and  
92 whose bid is the lowest of those bidders possessing the skill, ability  
93 and integrity necessary to faithful performance of the work based on  
94 objective criteria considering past performance and information  
95 contained in the update [bid] statement submitted pursuant to section  
96 4b-91, as amended by this act. Essential information in regard to such  
97 qualifications shall be submitted with the bid in such form as the  
98 awarding authority may require by specification in the bid documents  
99 and on the bid form. Every general bid shall be accompanied by a bid  
100 bond or a certified check in an amount which shall be ten per cent of  
101 the bid, provided no such bid bond or certified check shall be required  
102 in relation to any general bid in which the total estimated cost of labor  
103 and materials under the contract with respect to which such general  
104 bid is submitted is less than fifty thousand dollars. Failure to execute a  
105 contract awarded as specified and bid shall result in the forfeiture of  
106 such bid bond or certified check. In considering past performance the  
107 awarding authority shall evaluate the skill, ability and integrity of  
108 bidders in terms of the bidders' fulfillment of contract obligations and  
109 of the bidders' experience or lack of experience with projects of the  
110 nature and scope of the project for which the bids are submitted.

111 Sec. 5. Subsection (b) of section 4d-12 of the general statutes is  
112 repealed and the following is substituted in lieu thereof (*Effective from*

113 *passage*):

114 (b) There is established an information and telecommunication  
 115 systems executive steering committee consisting of the following  
 116 members or their designees: The Commissioner of Administrative  
 117 Services, the Secretary of the State and the Secretary of the Office of  
 118 Policy and Management and not more than four other members who  
 119 are commissioners of an executive branch state agency, appointed  
 120 jointly by the Commissioner of Administrative Services and the  
 121 Secretary of the Office of Policy and Management. The Commissioner  
 122 of Administrative Services, or a designee, shall serve as chairperson of  
 123 the committee. The Department of Administrative Services shall serve  
 124 as staff to the committee. The committee shall (1) review and approve  
 125 or disapprove the annual information and telecommunication systems  
 126 strategic plan developed under section 4d-7, state agency estimates of  
 127 expenditure requirements for information and telecommunication  
 128 systems established under section 4d-11, and major telecommunication  
 129 initiatives, [(2) review, in consultation with the Department of  
 130 Administrative Services, and approve or disapprove variances to (A)  
 131 the list of approved architectural components for information and  
 132 telecommunication systems for state agencies, (B) the strategic plan,  
 133 and (C) appropriations for information and telecommunication  
 134 systems,] and [(3)] (2) advise the Department of Administrative  
 135 Services on the organization and functions of the department in  
 136 regards to information and telecommunication systems. [The  
 137 committee shall submit a report on each approved variance to the  
 138 General Assembly, in accordance with the provisions of section 11-4a.  
 139 Such report shall include the reasons for the variance and the results of  
 140 a cost-benefit analysis on the variance.]

This act shall take effect as follows and shall amend the following sections:

Section 1	July 1, 2018	4b-91(d) and (e)
Sec. 2	July 1, 2018	4a-100(k)
Sec. 3	July 1, 2018	4a-100(n)
Sec. 4	July 1, 2018	4b-92

Sec. 5	<i>from passage</i>	4d-12(b)
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***Statement of Legislative Commissioners:***

Sections 1(e) and 2 were added for consistency with other provisions in the bill.

**GAE**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

#### ***State Impact:***

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Various State Agencies	Various - Cost Avoidance	Potential	Potential

Note: Various=Various

#### ***Municipal Impact:*** None

#### ***Explanation***

The bill authorizes public contracting agencies to allow bidders up to two business days after a bid opening to submit updated prequalification certificate information.

The bill may result in a savings to the state. If a bidder is chosen for a project and it is later discovered that this lowest qualified bidder had to be disqualified because its bid package did not include updated information, potential costs to the state could result depending on the bid amount of the next lowest bidder.

#### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sSB 251*****AN ACT CONCERNING STATE CONSTRUCTION AND STATE INFORMATION AND TELECOMMUNICATION SYSTEMS.*****SUMMARY**

This bill authorizes public contracting agencies to allow bidders up to two business days after a bid opening to submit their prequalification certificate, if required, and an update statement (which the bill renames from “update bid statement” to more accurately reflect its contents, see below). Current law disqualifies a bid if the update bid statement or applicable prequalification certificate is missing.

The bill replaces statutory references to the term “update bid statement” with “update statement.” Current law requires the DAS commissioner to establish (1) an update statement for contractors and substantial subcontractors to use when renewing or upgrading their prequalification certificate and (2) an update bid statement for submitting a bid on a public works contract. Under the bill, an update statement serves both of these purposes.

Current law requires bidders to provide certain information in the update bid statement regarding changes since the date the bidder's prequalification certificate was issued or renewed, including all projects currently under contract and any significant changes in financial position or corporate structure. Under the bill, this required information is provided in the update statement.

The bill also removes a requirement that the Information and Telecommunications Systems Executive Steering Committee review, in consultation with DAS, and approve or disapprove variances to the list of approved architectural components for information and



telecommunications systems, the strategic plan, and funding levels. It correspondingly eliminates a requirement that the committee report to the legislature on each approved variance, including reasons for the decision and the results of a cost-benefit analysis.

The bill makes conforming changes throughout the statutes.

EFFECTIVE DATE: July 1, 2018, except the provision on the executive steering committee is effective upon passage.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17      Nay 0      (03/28/2018)